

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DEAN STREET CAPITAL
ADVISORS, LLC,

CIVIL NO. 17-1781 (RHK/DTS)

Plaintiff,

v.

ORDER

OTOKA ENERGY, LLC;
BUENA VISTA BIOMASS
DEVELOPMENT, LLC;
BUENA VISTA BIOMASS
POWER, LLC;
AMADOR BIOMASS, LLC;
STATE STREET BANK AND
TRUST COMPANY; and
ANTRIM CORPORATION,

Defendants.

The above matter came before the undersigned on July 11, 2017 upon Defendants' Joint Motion to Extend Deadline to Answer or Otherwise Respond to Complaint. At the hearing, the parties and the Court agreed that the deadline for Defendants to respond to the Complaint could be stayed pending mediation. The parties were to inform the Court no later than July 19, 2017 of a selected mediator and mediation date. The Court has been informed that the parties have agreed to mediation on August 7, 2017 with Judge John Borg (Retired).

The Court, being duly advised in the premises, upon all of the files, records and proceedings herein, now makes and enters the following Order.

IT IS HEREBY ORDERED:

1. Counsel who will actually try the case and each party, armed with full settlement discretion, shall attend the mediation with Judge John Borg (Retired) on

August 7, 2017. If individuals are parties to this case, they shall be present. If a corporation or other collective entity is a party, a duly authorized officer or managing agent of that party shall be present. In all cases, the duly authorized officer or managing agent with settlement discretion cannot be in-house counsel directing the litigation. This means that each party must attend through a person who has the power to change that party's settlement posture during the course of the conference. If the party representative has a limit, or "cap" on his or her authority, this requirement is not satisfied. Any failure to comply with the spirit of this directive will constitute a violation of Fed. R. Civ. P. 16(f) which provides in part:

(2) *Imposing Fees and Costs.* Instead of or in addition to any other sanction, the court must order the party, its attorney, or both to pay the reasonable expenses—including attorney's fees—incurred because of any noncompliance with this rule, unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

If an insurance company is involved, the responsible agent must be present.

Appearances by telephone are not permitted.

2. This litigation, including any and all discovery, shall be stayed until an impasse is declared by the Mediator following the August 7, 2017 mediation.

3. Defendants, without waiver of any defenses or counterclaims, shall have through and including 14 days after the declaration of an impasse by the Mediator, to move, answer or otherwise respond to the Complaint.

Dated: July 20, 2017

s/ David T. Schultz
DAVID T. SCHULTZ
United States Magistrate Judge